

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

7/iback
6/6/85
32072

FILE: B-219265

DATE: August 26, 1985

MATTER OF: Army - Food served at luncheon
honoring handicapped employees

DIGEST:

Army may not use appropriated funds to pay for meals of handicapped employees attending a luncheon in honor of National Employ the Handicapped Week.

The Assistant Comptroller for Finance and Accounting, Department of the Army, has requested a decision on whether the Army may expend appropriated funds to provide meals to handicapped employees attending a luncheon held in honor of National Employ the Handicapped Week. The luncheon is scheduled for the first week of October 1985. All attendees at the luncheon are to pay the cost of their lunch with the exception of some 80-90 handicapped employees in grades equivalent to GS-01 through GS-04 who are to attend as guests. The cost of the lunch is anticipated to be approximately \$8.00 per person, making the projected cost of the program to be about \$640.00 to \$720.00. For the reasons set out below, we find that the expenditure for the cost of the 80-90 meals is not permissible.

The Assistant Comptroller argues that the presence of the handicapped employees at the luncheon is crucial to the EEO training objective of allowing handicapped and non-handicapped employees to become more comfortable in each other's presence. Furthermore, he asserts that the luncheon provides a forum for dispelling preconceived notions because handicapped and non-handicapped employees will be able to interact in a non-work environment. He directs our attention to some prior decisions of the Comptroller General which he believes demonstrate that the expenditure is allowable.

First, the Assistant Comptroller refers to our decision in 60 Comp. Gen. 303 (1981), in which we held that the cost of a performance by an African dance troupe designed to promote EEO training objectives of making the audience aware of the cultural or ethnic history being celebrated could be

032959 / 1127751

taken from appropriated funds if it was part of a formal program determined by the agency to be intended to advance EEO objectives. He argues that, like the presentation involved in 60 Comp. Gen. 303, the luncheon here is a legitimate part of employee training under the Army's EEO program.

The Assistant Comptroller next refers to our decision of March 23, 1982, B-199387. In that case, we held that the Army could use appropriated funds to pay for samples of different ethnic foods prepared and served as part of a formal ethnic awareness program. ^{1/}

The general rule is that appropriated funds are not available for entertainment, including the provision of meals, unless specifically authorized by statute. See e.g., 61 Comp. Gen. 260 (1982); 60 Comp. Gen. 303 (1981); B-208527, Sept. 20, 1983; B-188078, May 5, 1977. Concerning the use of appropriated funds to pay for meals, the Federal Travel Regulations (para. 1-7.6(a) (Supp. 1, September 28, 1981), incorp. by ref. 41 C.F.R. § 101 - 7.003 (1984)), do not permit Government employees to receive a per diem allowance or any other payment for subsistence when they are at their permanent duty stations. See B-215702, March 22, 1985, 64 Comp. Gen. ____.

The two decisions mentioned above constitute rather narrow exceptions to the general rule against using appropriated funds to pay for entertainment. 60 Comp. Gen. 303 authorized payment for an African dance troupe on the basis of an Office of Personnel Management guideline which was held to authorize artistic presentations in connection with ethnic and cultural special emphasis programs.

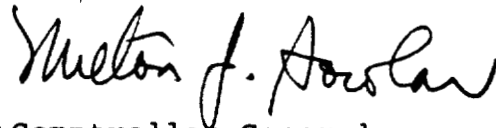
Similarly, the food samples in B-199387 were themselves a part of an educational program designed to acquaint employees with the unique characteristics of different cultures and countries and were not intended as meals or refreshments. Accordingly, the use of appropriated funds to pay for food samples was held to be within the authority of the OPM ethnic awareness guidelines.

While we would not dispute the educational value of a social setting in which handicapped and non-handicapped

^{1/} Two other decisions, B-208729, May 24, 1983 and B-208527, September 20, 1983, mentioned by the Assistant Comptroller are not apposite.

employees can interact, we note that the guidance from the Comptroller General decisions relied on to authorize payment in the cases discussed above does not appear to cover the situation under consideration here. In both these cases the "entertainment" provided was itself representative of a cultural or ethnic heritage with which it was felt all employees should become familiar. In the present case, as the Assistant Comptroller himself recognized, "Unlike ethnic and cultural minorities, handicapped persons do not possess a common cultural heritage around which equal opportunity programs can be developed." Moreover, the submission indicates that the handicapped employees for whom meals would be provided work at the Army's Tank-Automotive Command in Warren, Michigan, which is also apparently where the luncheon would be held. Accordingly, the prohibition against paying employee subsistence while at a permanent duty station would appear to be directly applicable. We are therefore of the opinion that the lunches for the handicapped employees should not be paid for out of appropriated funds.

The above holding should not be interpreted to bar any expenses properly attributable to the EEO program itself and which do not constitute unrelated costs for meals or entertainment. (It is understood that the provision of a free meal to guest speakers at a luncheon meeting is permissible, since it amounts to a kind of honorarium or inducement for obtaining their services.) Moreover, we note from the submission that certain selected handicapped employees are to receive special recognition for their achievements during the year. We would have no objection if these special honorees were provided with a free lunch, in addition to a plaque or whatever other award was contemplated, pursuant to OPM and agency regulations governing awards.



Acting Comptroller General
of the United States